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SPEECH  
 OF  
 ROBERT DALE OWEN,  
 OF INDIANA,

*Delivered in the House of Representatives of the United States, Jan. 8, 1845.*

[The House being in Committee of the Whole on the State of the Union, and having under consideration Joint Resolution No. 46, for annexing Texas to the United States,]

Mr. OWEN said: In the brief time which our rule allots to debate in this House, one is compelled to select from among the various topics of any important subject. Leaving, then, the details of the several plans of annexation to be discussed by their authors, I shall say but a word on the constitutional argument, already ably touched on; an argument, however, which it is difficult fully and with precision to make, until we shall be able to distinguish in what particular form annexation is likely to be consummated.

We have talked of a "treaty of annexation," until these have become familiar words. Is it certain, that such an act can be properly consummated by a treaty at all? A treaty is a compact between two sovereign nations. Now, at what moment could what we have called a treaty of annexation have been such a compact? Not certainly before it was ratified. Until then, it was of no force whatever; an escrow; inchoate, as lawyers say. But would it have been a treaty *after* its ratification? Suppose the Senate roll called, the ratifying vote given, and the instrument passed to the President; at the instant when his pen completed the approving signature, would it, even at that first moment of final action upon it, at that very first moment of its legal existence, then have been a treaty? A treaty between whom? A compact between what two sovereign powers? Between us and Texas? That approving signature would have stricken Texas from the independent sovereignties of the earth. And there would have remained nothing, but what is familiar enough to us—what Congress has often consummated, and will consummate again and again, as a matter of course—a compact between the federal government, and a portion of our own territory; a compact coming within the province of Congress, not of the treaty-making power.

There would be stipulations still to be fulfilled, but not what could be properly called *treaty stipula-*

tions, for there would be no foreign sovereign power ther. existing, with whom we could fulfil them.

My argument is not, that an act of annexation is nothing more than a compact between the general government and one of her Territories. I but say, that it resembles that quite as much as it resembles a treaty. But, in truth, it is neither the one nor the other. It is an act *sui generis*. Talk of precedents to justify it! You might as well seek, in his ancestors, the fame of Napoleon Buonaparte. He was himself an ancestor! There never was, in the history of the world before, so far as my reading extends, an offer made by one of the independent nations of the earth to merge her sovereignty in that of another. It is a contingency wholly new. The action upon it must be new. Our action in this case will become a precedent.

That we have the right, in some form, to extend our territory by accepting such a proposition, no sensible man, I think, can very seriously doubt. A sovereign power *without* the power of receiving an accession of domain would be an anomaly in jurisprudence, if not a contradiction in terms. To deny to a nation such a power of increase, is a sort of Shaker doctrine in politics, which we may expect to see received in theory, and acted out in practice, in this world, when the doctrines of Mother Ann Lee are professed and practised by mankind—not till then.

Our decision as to the most appropriate form, in which to set so great a precedent, ought, in my judgment, to be chiefly determined by the consideration, that it is desirable it should receive the most complete national assent that can be given to it, under our institutions. And surely it is not the best mode of effecting such an object, to exclude from all participation in that assent, this, the popular and most numerous branch of the government.

With these brief hints, I leave the constitutional point to others, older and of more experience in legislation than myself, and pass to a review of the subject, in its foreign aspect. I purpose to speak of the justice and expediency of this great measure; in connection with the public sentiment of this country, and with the laws of the civilized world.

In all matters of controversy, however important,

there are commonly certain main principles, which once established, the whole subject in dispute is settled. And if we desire to obtain clear views of things, we do well to fix our eyes steadily on these, nor suffer our attention to be withdrawn by incidental propositions, not relevant, or, at least, not essential.

If this be true in the general, the remark applies with especial force to the subject before us. It would be difficult to find a matter, where the decisive points at issue are so few and simple; yet one that has been so smothered up by a load of extraneous matter, as this of Texas annexation. The right or wrong of the case is a question of public justice, of international law; it hangs not on the tone of a despatch or the wording of an accompanying document. The expediency of the measure involves considerations national in the widest sense of the term, co-extensive with the Union, reaching to after ages; let it not be dwarfed down to a party wrangle, or a Northern and Southern dispute; a quarrel, that has no higher aim, than to give office to a man, or sustaining aid to a temporary institution.

The public press is loaded down with comments on the diplomatic encounters of the past year, between us and Mexico. These paper weapons may decide our opinion of men; they ought not to influence our judgment of measures. Let those who find cause of offence in their language and spirit suffer me to remind them, that, when they have settled that point, they are no nearer the true issue than before. We may not like the terms in which a claim is urged; yet, if we are just, we shall still look to the substance of the claim, not to the manner of preferring it.

It is easy and invidious to find fault, especially when a transaction is passed and its results have become apparent. Yet I trust I shall not give offence, nor be held failing in respect to the parties concerned, if I express regret, that the question of the right or the wrong of the Texian revolution has been suffered to mingle, even incidentally, with the true issues, in our diplomatic correspondence with Mexico. The Texians, indeed, have most ample justification of their revolution. The war which gloriously ended at New Orleans thirty years ago this very day, was not more just than that by which Texas became independent. One half the provocation Texas has received would have dissevered our Union long ago. There is not a State of the twenty-six so poor of spirit, that her citizens would not have risen, as a man, against such usurpation. But however unquestionable the right, it is not one, in my judgment, which we were called upon, or which we should have permitted ourselves, to argue with Mexico. With Texas, not with us, was the question of past grievances against Mexican authority open, if open at all. But in truth it was closed; closed, long since, by that stern arbiter, the sword.

Nor does it seem to me, that it was our place, as negotiators, even to allude to former rights under by-gone treaties. Do we claim Texas under the treaty of 1803? Not at all. Signor Rejon so construes it; but that is only one of the men of straw he sets up, for the convenient pleasure of comfortably demolishing him again.

As between us and Texas, the argument from that treaty, in its moral bearing, is a strong one; and as such I have, on a previous occasion, alluded to it. Our solemn promise publicly made in 1803 we violated in 1819; and though we may not take ad-

vantage of our own wrong still to claim Texas against our formal cession, yet neither are we released from our obligation to receive her, so soon as circumstances lawfully and honorably permit, and she herself desires, re-annexation.

If any thing can strengthen our moral obligation to repair a great wrong, committed for the sake of acquiring the Floridas, it is the fact, not generally known, that the Texians, numbering in 1819, over ten thousand free white inhabitants, formally protested, just four months after the signature of the Florida treaty, against this abandoning of their persons and their territory to the tender mercies of Spain.

In Niles's Register for 1819, at page 31, is to be found this protest. It is contained in "a copy of a declaration issued on the 23d of June (1819) by the supreme council of the republic of Texas," in which, after stating that the Texians had long indulged the hope that they would be included in the limits of our Union—a hope, they add, which the "claims of the United States, long and strenuously urged, have encouraged"—the Council proceeds to say:

"The recent treaty between Spain and the United States of America has dissipated an illusion too long fondly cherished, and has roused the citizens of Texas from the torpor into which a fancied security had lulled them. They have seen themselves, BY A CONVENTION TO WHICH THEY WERE NO PARTY, LITERALLY ABANDONED TO THE DOMINION OF THE CROWN OF SPAIN; and left a prey, not only to impositions already intolerable, but to all those exactions which Spanish rapacity is fertile in devising."

This remarkable protest is signed by the President and Secretary of the "Supreme Council." If I am asked here to produce the credentials of these gentlemen, and to show under what precise law this Council was elected and qualified, my reply is, that in the early efforts after independence put forth by new and thinly settled countries, little of rigid formality can be expected. The declaration is an expression of public sentiment, as official, probably, as the then condition of Texas permitted. And at all events, the authority of the Texian Council was quite as regular as that of stout Ethan Allen and his handful of volunteers, when the old soldier, more than a year in advance of the Declaration of Independence, thundered at the gates of Ticonderoga, and bade her surrender "in the name of the great Jehovah and the Continental Congress!"

But all this, I repeat, touches but the bark of the controversy. Let us penetrate that, and reach its substance at once.

Texas is an independent Republic, occupying a separate and equal station among the nations of the earth, legally possessing her own soil, lawfully administering her own laws,—or, she is but a revolted province, over which Mexico has preserved all her rights; her government but a provisional usurpation, the title to her territory still in the mother country.

Settle that one point—and, as regards the question in its foreign relations, every thing is settled.

It seems strange to me, that we should yet be required to argue such a question. And yet we are. Day after day pour forth from the leading journals of our opponents protests and denunciations. We who favor annexation are, if their words are to be taken for it, but a band of land-robbers, on a magnificent scale; leagued together for the avowed purpose of filching from Mexico, without a color of right, some two hundred million acres of her lawful territory. History is ransacked for examples of similar profligate ambition; and, in a recent number of the National Intelligencer, (of December 24,)



our government is likened, without scruple, to "that politic warrior and tyrant, Frederick the Great;" who, having "cast an eye of longing upon part of a neighboring realm which suited him," bade his Minister prepare a manifesto, making clear the justice of his title. The Minister obeyed, setting forth "the intended act of rapine as an errand of grace, mercy and justice."

"All this" (adds the Intelligencer) "the Minister dressed up in a very captivating form: nothing could be more rightful, nothing more necessary for his own safety from encroaching neighbors, nothing more charitable, nothing more for the glory of God and the advancement of religion. 'Stop!' cried Frederick, when his Minister came to that part of the Manifesto; 'leave out God and religion: I want a province!'"

Similar accusations find a voice on this floor. A gentleman from Massachusetts, [Mr. WINTHROP,] whose character and standing give weight to the charge and demand for it a reply, scrupled not, but the other day, to denounce the proposed act of annexation as a scheme "monstrous beyond all power of expression;" as a project, "contrary to the law of nations and in violation of the good faith of our own country." My colleague [Mr. C. B. SMITH] who has just spoken, takes the very same ground. He characterized the plan of annexation as an attempt "to rob Mexico of a part of her territory."

Now, sir, I, for one, when I give my vote,—as I hope yet this session to give it—for the annexation of Texas to these United States, am not willing to give it silently, under such imputations. Let our opponents here prove to us—not assert it merely—that this projected annexation is but an "act of rapine;" that it is a trampling under foot of justice, morality, good faith, international law—that we have no better excuse for it than this, "we want a province!"—and, if all the dreams of Marco Polo were realized in Texas; if there, at last, were to be found Cipango's shores of gold, the treasures of Antilla—not by my vote should even such a land, wrongfully wrested from a weaker neighbor, become part of this, yet undishonored, Union!

But in proof of charges so grave, there lacks something beyond mere idle iteration. There lacks proof, that Texas is not an independent State. I maintain, that she is; and if the Committee will give me brief attention, I purpose to show, somewhat more at large than on a previous occasion, good cause for the opinion.

Not lightly should this question be approached; not heedlessly decided. Let us beware! The fate of our offspring, the destinies of our descendants, may hang upon the decision. We, of the West especially, are as birds of passage. Our instinct attracts us to regions distant and new. In Oregon, or elsewhere, the question may arise, as now, what is just revolution, and what, lawless revolt. In judging the Texians to-day, we may be deciding, of our own children, in after years, whether they shall be held to be freemen meriting honor, or traitors deserving death!

Leaving out of view the prime cause of the Texian revolution—that "violation of the fundamental laws," which, Vattel declares, gives to a sovereign's subjects "a legal right to resist him"—passing by that, we come to the fact, that, nine years ago, Mexico and Texas engaged in war. Texas was successful. She conquered, and has since peaceably possessed, her territory. Has she now a good title to that territory? Has she a right to convey it to whom she will? Let Grotius answer; Grotius writing two centuries ago;

writing under the eye of a king; dedicating his celebrated work to a king. Our whig friends cannot accuse me of dragging in the radicalism of some modern innovator, to sustain my position. I presume to hope, that the counsellor of Queen Christina, when he happens to decide in favor of liberty, will not be rejected by them as ultra-democratic authority. Yet here is his doctrine:

"According to the law of nations, not only the person who makes war upon just grounds; but any one whatever engaged in regular and formal war, becomes absolute proprietor of everything which he takes from the enemy, so that all nations respect his title, and the title of all, who derive through him their claim to such possessions; which, as to all foreign relations, constitutes the true idea of dominion."—*Rights of War and Peace, Book III, Chap. VI.*

As to the principle according to which the words "takes from the enemy" are to be construed, Grotius adds:

"In this question upon the rights of war, nations have decided, that a person is understood to have made a capture, when he detains a thing in such a manner, that the owner has abandoned all probable hopes of recovering it."—*Ibid.*

In regard to ships, for example, they are held to be captured, Grotius says, when they are "carried into some of the captor's ports, or to some place where their whole fleet is stationed." And as to personal effects generally, he informs us, that European powers have made it an "established maxim of the law of nations," that "captures shall be deemed good and lawful which have continued in the enemy's possession for the space of twenty-four hours."

As to lands, the principle is the same, but the application somewhat different. Grotius's words are:

"Lands are not understood to become a lawful possession and absolute conquest from the moment they are invaded. For, although it is true, that an army takes immediate and violent possession of the country which it has invaded, yet that can only be considered as a temporary possession, unaccompanied by any of the rights and consequences alluded to in this work, till it has been secured by some durable means, by cession or by treaty."—*Ibid.*

And a little further on is an example of the "durable means" here spoken of. He says:

"Now land will be considered as completely conquered when it is enclosed and secured by permanent fortifications, so that no other state or sovereign can have free access to it without first making themselves masters of those fortifications. On this account Flaccus, the Sicilian, assigns no improbable conjecture for the origin of the word territory, because the enemy is deterred from entering it."—*Ibid.*

Here, without cession, without treaty, fortifications are held to be "durable means" to secure territory, and to give absolute title.

From all this the rule of law is clear. Temporary possession of territory, by mere invasion, does not confer legal title. Permanent possession does. Possession to be permanent, must be secured by cession, by treaty, or by other durable means; as, for example, by fortifications. This latter condition was strictly applicable in former ages, when, as Xenophon expressed it, "in time of war the possession of a country is kept by walls, strongholds and barriers." But such is not now the custom; and the law does not require what is nugatory and useless. Any other condition of things which destroys all probable hopes of recovery; which provides means as effectual as were the fortifications of the olden time, to deter the enemy from entering a conquered territory; does, in fact, equally with that antique specification, confer legal title. Such a condition of things is a regular government, formally established and duly administered, extending its laws over the territory in question, peacefully and

with general acquiescence; an organized army and navy, prepared to protect that government; but, above all, stable, enduring possession; entire possession, with not a city, town, or even petty fortress remaining in the hands of the enemy; possession undisturbed by any invasion that is respectable or formidable enough seriously to threaten reconquest.

Such a state of things exists, and has for years existed, in Texas. It eminently fulfils the condition, that possession shall be secured by durable means, so as to take away all probable hopes of recovery. It fulfils it far more effectually than do Zenophon's "walls, strongholds and barriers." The plain truth is, that the government of Texas shows, at this very moment, more signs of stability than that of Mexico; and that the "province," to say the least of it, has quite as good a chance to conquer the mother country, as the mother country to resubjugate the "province."

This, I admit, has not, even since the battle of St. Jacinto, always been so. It is Time, the enactor of, and voucher for, the Common Law under which we live—it is Time, that has perfected the Texian title. "What to-day is fact," as some one has well expressed it, "to-morrow becomes doctrine." For a brief space after Houston's brilliant victory, the world still remained in suspense as to the ultimate issue of the contest. The "durable means" had not yet been used, to secure permanent possession. And while that condition of things lasted, scrupulously did the United States conform to its requirements. In the autumn of 1836, Texas formally applied for admission into our confederacy. What did our Chief Magistrate—he who now, in his retirement, bids us not delay? Did he evince (as the gentleman from Massachusetts charges that we have evinced) indecent haste, to obtain this rich territory? On the contrary, he rejected the overture. "A too early movement," said General Jackson, "might subject us, however unjustly, to the charge of seeking to establish the claims of our neighbors to territory, with a view to its subsequent acquisition by ourselves."

A second time, in August, 1837, the Texians applied, through their Minister General Hunt, desiring to be annexed to our Union. And yet again—this time by Mr. Van Buren—the proposal was declined.

Thus, in the early stage of Texian self-government, we but acknowledged her independence as existing *in fact*. We suffered year after year to set its seal of permanence on the existence and the institutions of the young republic, before we permitted ourselves to accept any offers, however advantageous, that involved the question of the validity *in law* of that independence, and the consequent competency of Texas to convey, under good title, her territory.

But the years of suspense and probation have passed. It is weakness, not prudence, in us longer to delay her full recognition. In former years we judged the fact of the independence of Texas for the time being, and acknowledged her *de facto*. Now, we judge of her permanent independence, and acknowledge her also *de jure*. We are, for ourselves, in both cases, the judge. That is, as a sovereign people, our privilege.

What plea will Mexico or Mexico's friends set up, in arrest of that judgment? I bethink me of but one; Mexico has a thousand times urged it; it is the burden of her justification. The plea is, that the Texian struggle was a rebellion, not a revo-

lution; that the Texians are still but rebels and traitors, and have none of the rights of enemies in war.

It might be enough to reply, as Webster replied to Bocanegra:

"The government of the United States does not maintain, and never has maintained, the doctrine of perpetuity of natural allegiance. And surely Mexico maintains no such doctrine; because her actual existing government, like that of the United States, is founded on the principle that men may throw off the obligation of that allegiance to which they were born."—*Despatch of July 8, 1842.*

But there lacks not authority higher than Webster's in the case. Vattel has treated it at large. Here is the substance of his doctrine:

"Some writers confine this term (civil war) to a just insurrection of the subjects against their sovereign, to distinguish that lawful resistance from *rebellion*, which is an open and unjust resistance. But what appellation will they give to a war which arises in a republic torn by two factions; or in a monarchy between two competitors for the crown?"—*Law of nations, Book III. Chap. XVIII.*

A little farther on, he proceeds to give his own answer to the question:

"The sovereign, indeed, never fails to bestow the appellation of *rebels* on all such of his subjects as openly resist him; but when the latter have acquired sufficient strength to give him effectual opposition, and to oblige him to carry on the war according to the established rules, he must necessarily submit to the use of the term, 'CIVIL WAR.'"—*Ibid.*

And, as to such a war, Vattel declares:

"It is evident, that the common laws of war—those maxims of humanity, moderation and honor, which we have already detailed in the course of this work—ought to be observed by both parties in every civil war."—*Ibid.*

A word about humanity by-and-by. Meanwhile suffer me to ask, whether in the case of Santa Anna, the Texians "acquired sufficient strength to give him effectual resistance." The Mexican Dictator will hardly deny that. And if he cannot, shall it be tolerated, that Mexico, by a paltry fiction which deceives no one, not even herself, should persist in assuming that there is no such Republic as Texas; that the lands lying between the Del Norte and the Sabine form but a petty revolted province of hers, which, when she can find a few weeks leisure, she will deign to chastise and resubjugate? All this, if the subject were less grave, might pass as a piece of national pleasantry. As it is, it is little short of an insult to the common sense of man, kind.

And we but sanction that insult, if we longer hold back in our judgment, sustained as it is by the common voice of the world, that Texas has been received as an equal into the family of nations; and now enjoys, as fully as any other nation upon earth, the powers and rights of an independent sovereign.

Enough on this branch of the subject. But now, dismissing the question of right, we are met by numerous objections against the expediency of annexation, as a measure fraught with evil consequences to human improvement, even with danger to the integrity of our Union. One of these—esteemed the gravest by some good men—is made in a sacred cause; in the name of human liberty. It is, that, in receiving Texas, we increase and perpetuate slavery among men.

We increase slavery? By what process? When, by act of Congress or otherwise, we cause that country now called the Republic of Texas to be styled henceforth the Territory, or the State of Texas, does that reduce a single human being, not now a slave, to the condition of forced vassalage? No one will pretend that it can. But it will increase the number of slaves in the United States? Undoubt-



edly. And so also will it surely increase, within the United States, the number of murders, and thefts, and breaches of the peace; unless we imagine Texas a Utopia, where crimes and offences are utterly unknown.

Every human enterprise is of checkered consequences. "The lives of the best of us," as it has been somewhere well said, "are spent in choosing between evils." In this world of imperfections, the practical question to be answered before we act, is, not whether our action is to produce unmixed good—to no human policy is it given thus to operate—but whether the good it promises will preponderate over the evils to which it may open the door. In admitting Texas, we increase, to some extent, our slave territory. But shall we count it for nothing, on the other hand, that we increase also, by one-sixth, our Union; happy, prosperous, blessed, even will all her faults, as we feel her to be. Is it a privilege to be a citizen of these United States; to sit down in peace and safety under the shelter of our republican institutions? And shall we count for nothing the extension of that privilege to tens of thousands now living; its prospective extension to millions more yet to live?

We can find no Utopia to annex. It is right or it is wrong, it is wise or it is unwise—apart from all temporary and sectional considerations,—to extend the national territory. If right and wise, we must be content, in carrying out such extension, to take things as we find them. Who are we, that we should be thus scrupulous in admitting into our confederacy a territory now tolerating slavery, because, in so doing, we are still to continue, over that territory, or over a portion of it, to tolerate, for a time, that institution? Who are we, and what has been our course? Have we hitherto added one foot to the national domain by treaty with the Red Man, I say not without finding evils in the added territory, but without creating them there? What think you of the transition state of the Indian, brought upon him by us, in which we take from him the bold, rude virtues of aboriginal life, and bestow, in return, only the lowest vices of civilization? What think you of the slavery of impermanence, the miseries of disease—our fatal gifts to the original lords of this broad land; now melting them away, till their very name will disappear from the living tribes of earth? Yet when did the consideration of such consequences ever arrest the signature of an Indian treaty?

But Texas annexation will perpetuate slavery? To me its probable consequences seem the very reverse of this. The impression is becoming general, that it would speedily drain off a large portion of the slave population of the northern slave States; and aid in effecting, what modern abolitionism has retarded, the peaceful and gradual emancipation of slaves in Kentucky, Virginia, Maryland, Delaware, and then in other States. But there is yet another view to be taken of it. Slavery, like monarchy, is a temporary evil. It will disappear, as all temporary evils must disappear, so soon as it becomes, and is generally felt to be, commercially unprofitable. We are rapidly nearing that point. The growing density of population and consequent increasing competition in manual labor, is driving us, year by year, towards it. And as it is gradually reached, in the several States; as the day arrives when a slave becomes a negative quantity in the market; when his master shall desire, by emancipation, to free himself from an incumbrance; in that day,

whither shall the negro go? Are his friends wise, in desiring to have the United States hemmed in on the southwest? in wishing to see a foreign, it might be a hostile Power, interposed between us and Mexico? If there be for the liberated African a path of deliverance and a place of refuge beyond; that path lies through Texas; that place of refuge, where the sun suits his blood and the institutions recognize the equal rights of his color, is to be found in Mexico, in Guatemala and the States farther South. Shut him out from these—and are you not, by that very act, virtually prolonging his bondage?

Slavery is not the true difficulty. In replying to the arguments of the abolitionists, we are not at the bottom of the question. We have not penetrated to the depths of the opposition against annexation. We have not yet touched the argument, the strongest, the deepest-seated in the minds of its opponents. Late indications distinctly reveal it to us. In the columns of the leading Metropolitan Whig journal—the most moderate and respected organ of the party—in the leader of the National Intelligencer, under date the 13th December last, I find the following:

"Deprecating any extension of the territory of the United States beyond its present limits as an evil, in itself of great magnitude; protesting against it, under any circumstances, for the sake of the interests of the States of the Union, both old and new, which are, in our opinion, deeply involved in it; yet if in any form, &c."

I pray you to note that. I ask you to observe distinctly how the matter stands. It avails not to argue, with our opponents, the question of right to annex. It is idle to substantiate to them, from the pages of international law or the dictates of common sense, the legal independence of Texas. These outworks carried, there is a barrier beyond; towering far above them; standing untouched, if they were levelled to the ground. It is not an extension of our national domain on its southwestern frontier, it is ANY extension, which our opponents deprecate. It is not Texas, as such, they reject; they would reject equally a country in any other latitude, peopled by any other race, bearing any other name. They protest not against annexation, for that it may increase and perpetuate slavery; they protest against it, as in 1803 they protested against the purchase of Louisiana, "under ANY circumstances."

Is the whig party wrong in this, their great objection? As whigs, I am not prepared to assert that they are.

Rome, in the heyday of her power, added province to province; and this extension of her territory but seemed to hasten her decline and fall. The mad ambition of Alexander sufficed to conquer half a world; yet, within a year after his death, the overgrown empire purchased by the blood of millions fell to pieces, it seemed, from its own weight. Are these to be held as beacon lights for us, in the present juncture? If ours be a government like that of Rome under the empire, like that of the Macedonian conqueror, undoubtedly yes. If it is fated gradually to approach such a character, still, undoubtedly yes. Or if, like Mexico, we are at last to settle down upon Centralism; if the rights of the States are to be stolen piecemeal, and the central power here invested with their spoils; if this city of Washington is to dispend, as did the mistress of the world from her seven hills, all laws to govern our land; nay, without proceeding so far, if all doubtful powers in the constitution are to be assumed as lawful; if the sphere of federal legisla-

tion is to be gradually increased; if we are to interfere with commerce, favoring under the name of protection, one section of our country, by taxing the industry of another; if, closely connected with our government, there is to be a central money power, stronger in these days, and therefore more dangerous to liberty, than a standing army; if the checks which the wisdom of revolutionary days incorporated in our constitution, to arrest the hot haste of party, in its flush of power,—if these restricting checks are to be swept away; in a word, if the progress of our federal policy is to be from the less to the more of legislation; then reject Texas, abandon Oregon, add not, by treaty, one acre more of Indian lands. Nay! if such is to be our future course, this Union is far too large already; it ought never to have been permitted to overpass the Alleghanies.

But will such be the progress of legislation among us? Ought it to be? In following out, from age to age, the story of the ceaseless struggle between the privileges of the few and the rights of the many, forth from every page, blazoned on the experience of every nation, shines forth the great truth, that overmuch legislation has been the curse of mankind; and that law has become (alas! how few the exceptions!) a weapon of aggression rather than an agis of defence. As we read, we feel, that the protection of government has been overpaid for by its intermeddlings; and that the people might well, in the words of the Cynic philosopher, tell the Alexanders of the world, that the only favor they asked of them was—to stand out of their sunshine!

Men are not wise and good enough to dispense with law. Would that they were! Government, like medicine, is to us a necessary evil. There is such a thing as the despotism of anarchy; and a king is not indispensable to a reign of terror. The practical question is, how many of the Sibylline leaves of legislation we may safely burn, yet leave the remainder more valuable than was the entire code.

From the fate of past delusions we may determine the trendings of future reform. When a miner sinks his shaft and strikes a productive vein of ore, it is his practice first to follow it so far as to observe its leading direction: then, emerging to the surface, with that observation for his guide, he sinks, at remote distances, other shafts, confident that he will again arrive at the object of his search. So with the rich and hidden lodes that stretch away into the great mine of Progressive Improvement. Guided by an observation of their past course, we may predict where an after generation will find them.

But the principle of progress in legislation has hitherto been from the more to the less. If we compare the statutes and constitutions of Republican America with the laws of Monarchical Europe, it may surprise us, to discover, how much of the difference between them consists—in omissions. And of the after-thought of revolutionary law-givers—of the thirteen articles that form the amendments to the federal constitution—nine, at least, are of a negative or restrictive character; circumscribing, within narrower limits, the province of legislation. So in older countries and in former ages. All the important provisions of Magna Charta are prohibitory. A freeman shall not lose property or life by the monarch's decision; a traveller shall not be prevented from leaving the kingdom or returning to it at pleasure; the king's servants shall not arbitrarily seize the property of his subjects. Even the minor priv-

ileges secured at Runnemede are of a similar stamp; as witness one, characteristic of those times, namely, that a baron's widow shall not be compelled to marry, if she prefer to remain single. So again of the Habeas Corpus Act, called by Blackstone "that second Magna Charta and stable bulwark of liberty," of which the provision is, in substance, that a man shall not be confined in prison on mere suspicion. All of these were rude efforts to narrow down the sphere of government. And still, even in later years, the same principle prevails. Throughout Europe,—but especially in England, that half-liberal mother of republics—religion and the press have for centuries been struggling against the interference of law; with partial, but positive success. And commerce, if at some distance, has been gradually following their footsteps. All proceed in one direction; all tend to one goal.

From such facts the inference is, that in our republic, as elsewhere, we shall gradually govern less; that the province of our federal legislation will contract as our territory expands. If it does—and that it will the past may vouch—safely, yes, most beneficially may this Union and its blessings spread over the entire continent of North America; each independent State secure in its own separate sovereignty, and but increasing by its accession, the wealth, the power, and the safety of the Great Confederacy.

I shall notice yet another objection. It is, that annexation brings, in its train, the scourge of war; while by refusing to annex, we obtain, surely and permanently, the blessings of peace. Let us sift this matter a little.

Two paths are open before us. The one, to declare, as most righteously we may, the legal independence of Texas; to act boldly on that declaration; to accept, what not a government in Europe, if similarly situated, would dream of refusing, the proposition twice already made to us, that we should receive again Texas within our borders; and then—as all men and all nations must, be their conduct ever so scrupulous—to abide the consequences. The other—ah, that, we shall be told, is the path of safety and of peace! At its entrance, it may be; many a path of danger and of death has a fair and pleasant entrance. Let us look to the end. Say that we reject Texas, and leave her and Mexico to settle their quarrel. Very well. By so doing, we soothe the insolence of Mexico, and quiet the jealousy of England. That is satisfactory. England makes a free-trade treaty with Texas; extending over that republic (as the phrase now is) her "Protectorate." Let that pass! Mexico, relieved from all apprehension of interference from us, proceeds to carry into effect the inhuman threats she has lately made against our Texian neighbors. Is that to pass, too? Before we enter this same path of peace, let us look a little in advance, and settle, which is our way out. Mexico has formally, publicly, officially warned the Texians to evacuate their country; and declares, that, if they refuse, every one who shall be guilty of the *crime* of being found anywhere in Texas three miles from her western frontier, shall be put to death. Is that, in this nineteenth century incredible? It is true. Witness the "Orders of General Woll," as officially communicated to this House by our Secretary of State, carrying out the provisions of Santa Anna's decree of June 17; a decree, which forbids all quarter to the Texians, under penalty, to the officers non-complying, of the loss of their commissions. Here is the black record:



## "ORDERS OF GENERAL WOLL.

"HEADQUARTERS OF THE ARMY OF THE NORTH,  
MEX., JUNE 20, 1846.

"1. Adrian Woll, General of Brigade, &c., make known:—  
"1. The armistice agreed on with the department of Texas having expired, and the war being, in consequence, recommenced against the inhabitants of the department, all communication with it ceases.

"2. Every individual of whatever condition, who may contravene the provisions of the preceding article, shall be regarded as a traitor, and shall receive the punishment prescribed in article 45, title, 10, treatise 8, of the articles of war.

"3. Every individual who may be found at a distance of one league from the left bank of the Rio Bravo, will be regarded as a favorer and accomplice of the usurpers of that part of the national territory, and as a traitor of his country; and, after a summary military trial, shall receive the above punishment.

"4. Every individual who may be comprehended within the provisions of the preceding article, and may be rash enough to fly at the sight of any force belonging to the Supreme Government, shall be pursued, until taken or put to death."

The orders are plain as language can make them. The crime is being found in Texas. Every individual from the fact of his being so found, is to be held and deemed to be a "traitor of his country;" and, as such, monstrous as it may seem! all—for there is no distinction, no exception made or hinted at—EVERY human being there found, is, after summary military trial, to suffer a traitor's death!

In comfortably pursuing our path of peace and of safety, these "Orders" meet our eye. Are we to pass them by? To notice them might breed a quarrel. Have we a right to notice them? I suppose the next question will be, whether we have a right to fire on the pirate's flag, or to thwart his good pleasure, when he bids his victims walk the plank, and consigns them to a watery grave. But, if needs be, we may find proof, that the law of nations does, in some cases—and this is one—permit us to follow the dictates of mercy and justice.

In every civil war, as has been already shown from Vattel, international law requires both parties to "observe the common laws of war, the maxims of humanity, moderation and honor." What are these laws? Let Vattel inform us.

"On an enemy's submitting and laying down his arms, we cannot with justice take away his life. Thus, in a battle, quarter is given to those who lay down their arms; and, in a siege, a garrison offering to capitulate are never to be refused their lives."—Vattel, *Book iii., chap. 8.*

"Women, children, feeble old men, and sick persons, come under the description of enemies; and we have certain rights over them, inasmuch as they belong to the nation with which we are at war. But they are enemies, who make no resistance; and consequently we have no right to maltreat their persons, much less to take away their lives. This is so plain a maxim of justice and humanity, that, at present, every nation in the least degree civilized acquiesces in it."—*Ibid.*

"It was a dreadful error of antiquity, a most unjust and savage claim, to assume a right of putting prisoners of war to death, even by the hand of the executioner. More just and humane principles have, long since, been adopted."—*Ibid.*

But Mexico, we may be told, only threatens this flagrant violation of the law of nations. The threat is itself illegal. What we may not do, neither are we permitted to threaten. Says Vattel:

"Whatever advantage you may promise yourself from an unlawful proceeding, that will not warrant you in the use of it. The menace of an unjust punishment is unjust in itself; it is an insult and an injury."—*Book iii., chap. 8.*

But the threat is idle, it has been said; merely meant to intimidate; too horrible to be fulfilled. If the blood shed on the plains of Goliath had a voice; if the walls of the Alamo could speak; would they

vouch for it, that Mexico is too tenderhearted to keep her word? The treaty of capitulation with poor Fannin was formally drawn up and signed by both Mexican and Texian officers; yet the morning of Palm Sunday saw four hundred disarmed men marched out and shot down, like beeves in a slaughter-house. From what has been we are justified in deciding what will be.

But still, if these threatened crimes are committed by Mexico, where do we find warrant to interpose and arrest them? That, too, shall be forthcoming. It would be strange if it could not be found. Of what use is a law without a penalty? Of what avail the law of nations, if nations are not authorized to see it obeyed! So decides Vattel:

"The laws of natural society are of such importance to the safety of all the States, that, if the custom once prevailed of trampling them under foot, no nation could flatter herself with the hope of preserving her national independence, and enjoying domestic tranquillity. \* \* \* All nations have therefore a right to resort to forcible means for the purpose of repressing any one particular nation who openly violates the laws of the society which nature has established between them, or who directly attacks the welfare and safety of that society."—Vattel, *Prelim. p. Ixiv.*

Here, then, we have the law and its application. Mexico has openly violated, and declared her purpose, in aggravated form, again openly to violate, the holiest laws of civilized society. By so doing she justifies us in resorting to force for the purpose of repressing her. Shall we do so? It is not always expedient to avail ourselves of a right. We are not bound to become the Don Quixotes of the age, and sally forth to redress all the grievances of the civilized world. That has never, so far, been the policy of our country. Greece and Poland had more or less of our sympathy, and that was all. We assumed not to decide on the British doings in Afghanistan, or to judge the conduct of the opium war against China. But Texas is our next neighbor, and was once under our special guardianship. We are, to employ the law phrase in its strictest sense, her nearest friend. To us, if to any nation upon earth, she has a right to look for succor and protection. Shall we forsake her now?

If such be our decision, it behooves us, as prudent men, fully to digest our plan; and trace it to its final consequences.

Say that we remain inactive and neutral, and suffer things to take their course. What happens? Conquer Texas Mexico cannot; but invade her she may; present appearances indicate she will. Just at this moment, indeed, Mexico is embroiled at home. But her civil wars are ever of short duration. And to Texas it matters little which of the barbarians triumph. They have both, like Hannibal at the altar, sworn eternal enmity to her. They vie with each other in protestations of zeal. Death and destruction to the Texians!—that, even now, is the theme of every despatch, the burden of every proclamation. The victor, be he Paredes or Santa Anna, is pledged to carry out, without delay, in all its barbarity, the menaced invasion. To sustain and give brilliancy to newly-gotten power, he must redeem his pledge. Imagine the sequel! The Rio Bravo is crossed. Another league, and a rufian soldiery—their swords yet wet with the blood of their countrymen—enter the doomed land. Must I call up before you the scenes that are to ensue? Cruel, at best, and terrible, is the trade of war! But a war of extermination! A war, where the eye pities not! where the sword spares not! where

the command is, to save alive none that breathe! Conquerors, even in the flush of victory, have wept over a field of battle, where the strong man died, his weapon in his hand, the frown of defiance yet unfaded from his brow. But a field of slaughter, indiscriminate slaughter, slaughter of the defenceless, the unresisting!—a field, where mingle, defiled in dust and gore, the white locks of venerable age and the fair soft hair of unoffending childhood! Think—think what it is—this carnage of a nation, without distinction of age, of condition—there is yet more—of SEX!—Do you remember the words the Dramatist?

“The man who lays his hand upon a woman,  
Save in the way of kindness, is a wretch,  
Whom 'twere base flattery to call a coward!”

And it is woman—it is that gentle being whom the desert lion himself is said to pity and to spare—it is the young mother—her infant charge sheltered in her arms—it is the wife and mother, fleeing to rescue her person from the pollution of a brutal banditry—to save the child of her bosom from their murderous steel—it is even she, to adopt, in all their cold official atrocity, the words of the decree of blood, who, if she be “rash enough to fly”—at the sight of this approaching horde of assassins—is to be “pursued until taken or put to death!”—

—And what then? The report of these deeds of crime and shame is to come to us across the Sabine. The story of each succeeding brutality is to sink down, in all its damning details, into the hearts of our people. The South, with her fiery pulse and her hot chivalry, is to hear it. The West, with her fearless spirit and her quick sympathies, is to hear it. The North—yes, the North, less quickly roused, yet bearing, under her snow, a warm heart of pity—is to hear it. And, when the shadow of these deeds of darkness has settled down, like a pall over the entire land, I ask it yet again, what then?—“It is no concern of ours. Let them perish!”—Will that be the language—that the spirit—of young America? I—but her adopted child—even I dare, in this, to answer for her. No, no, a thousand times, no! We may turn over here the leaves of musty volumes; we may quote black-letter within these walls, in proof, that it is our bounden duty to stand passively by, without an effort to save, without a protest to avert, and see our brethren of Texas, their wives and their little ones, butchered before our eyes. See if the People will not make the case their own! We have not yet, in this hemisphere, reached the age of placid indifference. A nation's early youth, like man's, is full of warm and generous impulse. You will see it! Mark what the decision of this nation will be! That we have a right to interfere? I tell you, no!—other than that will be her language—that we have no right to hold back! There is a law more holy, far more imperative, than the law of the statute book—the unwritten law of the human heart—that law, which taught the Samaritan that he was the neighbor of him who fell among thieves.

And that law, speaking from the hearts of a young and noble people, will declare to us, that if we pass by on the other side and abandon our neighbors of Texas to their fate, ours is the crime, ours the scandal, ours, before the world, the shame! And so it is! When we sit tamely down under threats like these—when mercy and courage are so quenched within us, that we suffer, unprotected, outrage thus infamous on the law of nature and of nations—outrage, we are expressly told, that is to spread its crimson stain even to our very borders—then let our fair national escutcheon trail, shame-stained, in the dust; we are not worthy to give its broad folds to the free and gentle breeze of Heaven!

I speak warmly, sir. I feel warmly. Who may touch on subjects like that with a quiet pulse? Yet do I place my confidence in an appeal to sober judgment, not to hasty passion. I but ask you, to look into the future, before you act. That is the part of wisdom. I but ask you, to examine, step by step, the issue of the policy which the friends of peace at any price would have us pursue. I ask you to reflect, whether, in taking those steps, we shall be sustained by those who sent us here. I put to you the question: will our constituents be satisfied, in the present attitude of Mexico, with apathetic inaction, tame indifference, stoical neutrality? Each one must answer that question for himself. I can but say, that it is not *my* judgment of our people. I have found them neither cold nor passionless. And they must be both, if they demanded not, that now, even at the threshold of these menaced atrocities, while yet the assassin's sword is undrawn, their government should interpose (as it has interposed) in the name of outraged humanity, in the name of violated law, its solemn protest against them. Should that protest be effectual, well; our interposition will have averted murder and preserved peace: but should it prove unavailing, and the butchery, in very deed, proceed, the spirit of our fathers must be dead within us, if we grudge our treasure or our blood, whenever both may be needed, to arrest Mexican barbarity.

My conclusions are, then: that it is both wise and lawful to accede to the wishes of Texas, and incorporate that country into our Union; and that, till that incorporation is consummated, it is our duty to protest, and, if need be, to protect Texas, against all violations of international law, with which she has been menaced. The custom of nations permits this course; our national honor demands it. Boldness and plain dealing, ephastened by prudent foresight, are a nation's best resource against foreign encroachment; her surest means to avert the calamities of war. Boldly, then, and without reserve, let us meet this question. Let us annex Texas at once. The liberal portion of the world will approve, the rest will acquiesce; and, in ten years, the wonder will be, not that Texas has settled quietly down into an integral portion of our confederacy; but that men should ever have been found, so blind to the interests of their country, as to oppose her annexation.

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